

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 690**

Introduced by Robak, 22

Read first time January 20, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to criminal procedure; to amend sections  
2 29-3506, 29-3507, 29-3511, 29-3516, and 29-3521, Reissue  
3 Revised Statutes of Nebraska, and section 29-3523,  
4 Revised Statutes Supplement, 1998; to redefine terms; to  
5 change provisions relating to the expungement of certain  
6 criminal history record information as prescribed; to  
7 provide duties; to harmonize provisions; and to repeal  
8 the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 29-3506, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           29-3506. Criminal history record information shall mean  
4 information collected by criminal justice agencies on individuals  
5 consisting of identifiable descriptions and notations of issuance  
6 of arrest warrants, arrests, detentions, indictments, charges by  
7 information, and other formal criminal charges, and any disposition  
8 arising from such arrests, charges, sentencing, correctional  
9 supervision, and release. Criminal history record information  
10 shall not include intelligence or investigative information or such  
11 information required to be expunged pursuant to section 29-3523.

12           Sec. 2. Section 29-3507, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           29-3507. With reference to criminal history record  
15 information, complete shall mean that arrest records shall show the  
16 subsequent disposition of the case as it moves through the various  
17 stages of the criminal justice system. Complete shall not mean  
18 such information required to be expunged pursuant to section  
19 29-3523. Accurate + and accurate shall mean containing no  
20 erroneous information of a material nature.

21           Sec. 3. Section 29-3511, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           29-3511. Disposition shall mean information disclosing  
24 that criminal proceedings have been concluded, including  
25 information disclosing that the police have elected not to refer a  
26 matter to a prosecutor or that a prosecutor has elected not to  
27 commence criminal proceedings, and also information disclosing the  
28 nature of the termination of the proceedings. Disposition shall

1 not include such information required to be expunged pursuant to  
2 section 29-3523.

3           Sec. 4.     Section 28-3516, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           29-3516.   Each criminal justice agency in this state  
6 shall report the disposition of cases which enter its area in the  
7 administration of criminal justice.   As to cases in which  
8 fingerprint records must be reported to the Nebraska State Patrol  
9 under section 29-209, such disposition reports shall be made to the  
10 patrol. In all other cases when a centralized criminal history  
11 record information system is maintained by local units of  
12 government, dispositions made within the jurisdiction covered by  
13 such system shall be reported to the operator of that system or to  
14 the arresting agency in a noncentralized criminal history record  
15 information system. All dispositions shall be reported as promptly  
16 as feasible but not later than fifteen days after the happening of  
17 an event which constitutes a disposition.   In order to achieve  
18 uniformity in reporting procedures, the commission shall prescribe  
19 the form to be used in reporting dispositions and expungement of  
20 information pursuant to section 29-3523 and may adopt and  
21 promulgate rules and regulations to achieve efficiency and which  
22 will promote the ultimate purpose of insuring that each criminal  
23 justice information system maintained in this state shall contain  
24 complete and accurate criminal history information. All forms and  
25 rules and regulations relating to reports of dispositions by courts  
26 shall be approved by the Supreme Court of Nebraska.

27           Sec. 5.     Section 29-3521, Reissue Revised Statutes of  
28 Nebraska, is amended to read:

1           29-3521.     In addition to public records under section  
2     29-3520, information consisting of the following classifications  
3     shall be considered public record for purposes of dissemination:  
4     (1) Posters, announcements, lists for identifying or apprehending  
5     fugitives or wanted persons, or photographs taken in conjunction  
6     with an arrest for purposes of identification of the arrested  
7     person; (2) original records of entry such as police blotters,  
8     offense reports, or incident reports maintained by criminal justice  
9     agencies except information required to be expunged pursuant to  
10    section 29-3523; (3) court records of any judicial proceeding  
11    except information required to be expunged pursuant to section  
12    29-3523; and (4) records of traffic offenses maintained by the  
13    Department of Motor Vehicles for the purpose of regulating the  
14    issuance, suspension, revocation, or renewal of driver's or other  
15    operator's licenses.

16           Sec. 6.     Section 29-3523, Revised Statutes Supplement,  
17     1998, is amended to read:

18           29-3523.   (1) That part of criminal history record  
19     information consisting of a notation of an arrest, when after an  
20     interval of one year active prosecution is neither completed nor  
21     pending, shall not be disseminated to persons other than criminal  
22     justice agencies except when the subject of the record:

23           (a) Is currently the subject of prosecution or  
24     correctional control as the result of a separate arrest;

25           (b) Is currently an announced candidate for or holder of  
26     public office;

27           (c) Has made a notarized request for the release of such  
28     record to a specific person; or

1           (d) Is kept unidentified, and the record is used for  
2 purposes of surveying or summarizing individual or collective law  
3 enforcement agency activity or practices, or the dissemination is  
4 requested consisting only of release of criminal history record  
5 information showing (i) dates of arrests, (ii) reasons for arrests,  
6 and (iii) the nature of the dispositions including, but not limited  
7 to, reasons for not prosecuting the case or cases.

8           (2) Any person arrested due to the error of a law  
9 enforcement agency may file a petition with the district court for  
10 an order to expunge the criminal history record information related  
11 to such error. The petition shall be filed in the district court  
12 of the county in which the petitioner was arrested. The county  
13 attorney shall be named as the respondent and shall be served with  
14 a copy of the petition. The court may grant the petition and issue  
15 an order to expunge such information if the petitioner shows by  
16 clear and convincing evidence that the arrest was due to error by  
17 the arresting law enforcement agency.

18           (3) Any person whose conviction has been set aside by a  
19 sentencing court pursuant to section 29-2264 or who has received a  
20 pardon from the Board of Pardons, may file a petition with the  
21 district court for an order to expunge the criminal history record  
22 information relating to such conviction or pardon if twelve years  
23 have passed since the date of the offense charged. The petition  
24 shall be filed in the district court of the county in which the  
25 petitioner was arrested. The county attorney shall be named as the  
26 respondent and shall be served with a copy of the petition. In  
27 determining whether to authorize such expungement, the court shall  
28 use the criteria as provided in section 29-2264 for the setting

1 aside of a conviction. The court may then grant the petition and  
2 issue an order to expunge such information when in the opinion of  
3 the court the order will be in the best interest of the petitioner  
4 and consistent with the public welfare.

5           Sec. 7.     Original sections 29-3506, 29-3507, 29-3511,  
6 29-3516, and 29-3521, Reissue Revised Statutes of Nebraska, and  
7 section 29-3523, Revised Statutes Supplement, 1998, are repealed.